

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>SPENCER MURPHY</b>	)	
Claimant	)	
VS.	)	
	)	Docket Nos. 264,518 & 264,519
<b>USD 407</b>	)	
Respondent	)	
AND	)	
	)	
<b>EMCASCO INSURANCE COMPANY</b>	)	
Insurance Carrier	)	

**ORDER**

Claimant appealed the February 7, 2002 Final Order entered by Assistant Director Kenneth J. Hursh. The Board placed this appeal on its summary calendar. Stacy Parkinson of Olathe, Kansas, was appointed Board Member pro tem to serve in place of Board Member David A. Shufelt, who recused himself from this claim.

**ISSUES**

Docket number 264,518 is a claim for a May 30, 2000 accident and resulting injuries to the bilateral upper extremities, including the shoulders. Docket number 264,519 is a claim for a January 31, 2001 accident and resulting injuries to the back. In December 2001, claimant and claimant's counsel requested that Administrative Law Judge Bruce E. Moore be recused from both claims and all other matters involving claimant's attorney.

In a letter dated January 4, 2002, Assistant Director Hursh notified the parties that the Director of the Division of Workers Compensation had temporarily assigned these claims to him for hearing and deciding the recusal requests. The Assistant Director held a hearing on February 1, 2002. By Final Order dated February 7, 2002, the Assistant Director denied the requests for recusal. The Assistant Director concluded that the allegations made against Judge Moore, if true, failed to establish that the Judge would not afford claimant an impartial hearing in these proceedings or claimant's attorney fair treatment in future proceedings.

Claimant and claimant's attorney contend the Assistant Director erred. In their brief to the Board dated March 21, 2002, they argue the facts cited in the affidavits filed in these claims would cause a reasonable person to doubt Judge Moore's impartiality in dealings with claimant's attorney. Accordingly, claimant and claimant's attorney request the Board to issue a blanket recusal to prevent Judge Moore from adjudicating any proceedings in which claimant's attorney appears.

The sole issue before the Board on this appeal is whether Judge Moore should be removed from these claims.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record and considering the arguments, the Board concludes the February 7, 2002 Final Order that denied the requests to remove Judge Moore from these claims and any future proceedings in which claimant's attorney appears should be affirmed. The Board agrees with the Assistant Director's analysis of the evidence and his conclusions. Accordingly, the Board adopts the Assistant Director's findings and conclusions as its own.

**WHEREFORE**, the Board affirms the February 7, 2002 Final Order entered by Assistant Director Hursh.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of July 2002.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: Roger A. Riedmiller, Attorney for Claimant  
James M. McVay, Attorney for Respondent and its Insurance Carrier  
Kenneth J. Hursh, Assistant Director  
Philip S. Harness, Workers Compensation Director